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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

SINGH, DALZID E

ART UNIT

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/930,095	Applicant(s) MONGA, INDERMOHAN S.	
	Examiner Dalzid Singh	Art Unit 2613	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-11, 13-19 and 22-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, 6, 13 and 22 recites "requirement and non-requirements" The specification does not define what is requirement and non-requirement. Therefore it is what defines requirement and non-requirement.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-27 are rejected under 35 U.S.C. 102(e) as being anticipated by Lo et al (US Pub. No. 2002/0156914).

Regarding claims 1, 6, 13 and 22 (in view of the 112 rejection), Lo discloses a method for provisioning network services for a user application in an optical communication system, the method comprising:

ascertaining communication requirements of the user application;

determining a set of optical network communication services for the user application based at least in-part upon the ascertained communication requirements and non-requirements of the user application, the communications services including at least one of unshared lightpath, shared lightpath, routed path, latency, error rate, and protection mechanism; and

obtaining, from the optical network, the ascertained communication services for the user application (see paragraphs [0025,0029,0033,00037,0048]).

Regarding claims 2, 7, 14 and 23, wherein determining a set of communication services for the user application based at least in-part upon the ascertained communication requirements and non-requirements of the user application comprises mapping the user application communication requirements and non-requirements to the optical network communication services (see paragraph [0033]).

Regarding claims 3, 8, 15 and 24, wherein obtaining the communication services for the user application comprises interacting with a core optical communication network to obtain the communication services for the user application (see paragraph [0009,0025,0026]).

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Regarding claim 4, wherein the core optical communication network comprises an automatically switched optical network (ASON) (see paragraph [0033]).

Regarding claims 5, 11, 18, 19 and 25-27, wherein determining the communication services for the user application comprises interacting with at least one peer user application to determine the set of communication services for the user application (see paragraph [0039]).

Regarding claims 9, 10, 16, 17 and 21, wherein the optical communication network comprises an automatically switched optical/transport network (ASON), and wherein the UNI comprises an ASON UNI (see paragraphs [0031-0033]).

Regarding claim 12, Lo et al disclose a device comprising:

a user application requiring communication services from an optical communication network; and

an optical service agent operable to determine a set of communication services required by the user application, the communications services including at least one of unshared lightpath, shared lightpath, routed path, latency, error rate, and protection mechanism, and provision the set of communication services for the user application (see paragraphs [0009,0025,0029,0033,0037,0048]).

Regarding claim 20, Lo et al disclose system comprising:

an optical communication network; and

a network user application coupled to the optical communication network, wherein the network user application comprises an optical service agent for obtaining

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optical communication services from the optical communication network via a user-to-network interface (UNI) sufficient to support operation of the network user application, the communications services including at least one of unshared lightpath, shared lightpath, routed path, latency, error rate, and protection mechanism (see paragraphs [0009, 0026-0033, 0038-0046]).

Response to Arguments

5. Applicant's arguments filed 15 May 2007 have been fully considered but they are not persuasive.

On page 8 of the remark, applicant argues that "applicant is unable to find a teaching that communication services required by a user application are first determined and subsequently used for provisioning." On paragraph [0009] Lo teaches:

"...The service controller is operable to ***automatically set up paths*** and ***dynamically balance the bandwidth utilization*** among a plurality of selected paths ***in response to current traffic requirements*** on the plurality of selected paths."

This clearly suggest communication services required by a user application are first determined and subsequently used for provisioning.

Applicant argues that "the claimed optical service agent distinguishes Lo by provisioning based on application requirements rather than user-defined policies." In view of the 112 rejection, user requirement is interpreted as user policy.

On page 9 of the remark, applicant argues "that claim 20 distinguishes *Lo* by reciting "a network user application coupled to the optical communication network, wherein the network user application comprises an optical service agent for obtaining optical communication services from the optical communication network via a user-to-network interface (UNI) sufficient to support operation of the network user application."

It is inherent that any network comprises user-to-network interface. For example, keyboard of a computer can be considered as a user interface to the network (i.e., internet). The optical service agent is considered as controller. On paragraph [0033] *Lo* recites, "Referring to FIG. 3, which is a functional block diagram of the controller 10, the controller 10 has a transport interface 16 to the ASON 20. The transport interface 16 provides a proxy-signalling interface to the ASON 20 for the establishment of layer-1 source-routed connections. These layer-1 connections are set up and managed using the following parameters. An explicit route hop parameter specifies the route of an optical connection. For example, given a maximum of 64 nodes per domain, a particular controller 10 could use up to 64 explicit route hop parameters for one connection. A traffic parameter defines the required resources and traffic capabilities of the connection. The traffic parameters required for an optical connection are connection bandwidth and maximum delay. A pre-emption parameter specifies the pre-emption level of a connection. This parameter is used to identify connections that carry pre-emptable traffic, which may be pre-empted if the connection is required for restoration purposes.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Levondovsky et al (US Patent No. 7,095,956) is cited to show method and apparatus for validating a path through a switched optical network.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dalzid Singh whose telephone number is (571) 272-3029. The examiner can normally be reached on Mon-Fri 9am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Chan can be reached on (571) 272-3022. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

**DALZID SINGH
PRIMARY EXAMINER**

Dalzid Singh